
Transportation Committee

HB 1266

Brief Description: Updating laws on drugs and alcohol use by commercial drivers.

Sponsors: Representatives Murray, Woods and Kenney; by request of Department of Licensing.

Brief Summary of Bill

- Provides definitions for terms that are used in the federal regulations, makes terminology consistent with federal regulations, and provides evaluation and treatment standards that are consistent with federal requirements.
- Regulates reporting of positive drug or alcohol tests to the Department of Licensing ("DOL"). Pre-employment tests must be reported to the DOL along with any other positive tests once employment has been terminated.
- Requires employers of commercial drivers to report to the DOL when a commercial driver refuses to take a drug or alcohol test.
- Clarifies the scope of hearings requested by drivers to challenge disqualification for a positive drug or alcohol test.

Hearing Date: 1/31/05

Staff: David Munnecke (786-7315).

Background:

Commercial motor carriers are required under federal law to implement drug and alcohol testing programs for their drivers. In 2002, legislation was enacted requiring all medical review officers ("MRO") and breath alcohol technicians ("BAT") who conduct drug or alcohol testing for commercial motor carriers to report positive test results for a commercial driver directly to the DOL. A driver who wishes to challenge the positive drug or alcohol test result is entitled to a hearing.

DOL is required to disqualify individuals from driving a commercial motor vehicle if he or she fails a drug or alcohol test. A disqualification remains in effect until the driver presents evidence of satisfactory participation in, or completion of, a drug or alcohol program certified by the Department of Social and Health Services. DOL reinstates the commercial driver's license once it receives this evidence.

Summary of Bill:

Definitions are provided for "Positive alcohol confirmation test," "substance abuse professional" and "verified positive drug test" and the definition of drugs is clarified to include substances defined in federal regulations.

A refusal to take a drug or alcohol test that meets the standard for refusal under federal law is considered equivalent to a report of a verified positive drug test or a positive alcohol confirmation test, respectively.

A motor carrier, employer, or consortium that is required to have a testing program must report a refusal by a commercial motor vehicle driver to take a drug or alcohol test to DOL, when the medical review officer ("MRO") or breath alcohol technician ("BAT") has not reported the refusal.

An MRO or BAT under contract with an employer involved in transit operations may only report a positive alcohol or drug test for transit drivers to DOL when the positive test is a pre-employment screening test. A transit employer must report a positive test to DOL only after the driver's employment has been terminated and any grievance procedures have been concluded.

At a hearing to challenge a driver's disqualification, a copy of a positive test result with a declaration by the tester, MRO, or BAT that states the accuracy of the laboratory protocols used to arrive at the test result is prima facie evidence of: (1) the positive test result; (2) that the motor carrier, employer, or consortium has a testing program subject to federal requirements; and (3) that the MRO or BAT making the report accurately followed the protocols for testing established to verify or confirm the results.

A driver's disqualification remains in effect until a driver undergoes a drug and alcohol assessment by a substance abuse professional ("SAP") who meets federal requirements. The driver must then present proof of satisfactory participation or completion of the drug or alcohol program recommended by the SAP. The SAP is required to provide a recommendation to the DOL for use in determining the driver's eligibility for driving a commercial vehicle.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2005.